

Agency for International Development

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which receive cash from private, *i.e.*, nongovernmental, sources.

(f) It is not the purpose of registration to make, or enable to be made, any representation to the public concerning the meaning of being registered.

(g) Definitions: As used in this part:

(1) *AID* means Agency for International Development.

(2) *FAA* means the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*

(3) *Funds from private U.S. sources* means cash contributions received from private nongovernmental U.S. sources, *e.g.*, private individuals, groups, foundations and corporations. Cash contributions received directly or indirectly from the U.S. Government, state or local governments, the United Nations and other public international organizations, and foreign governments, institutions and individuals are not included. All in-kind contributions are excluded.

(4) *Overseas program costs* means the costs of all voluntary foreign aid operations conducted outside the U.S. and includes that portion of applicable indirect costs incurred in the U.S. (excluding fund-raising costs) necessary to carry out those voluntary foreign aid operations.

(5) *Pub. L. 480* means the Agricultural Trade and Development Assistance Act of 1954, as amended, 7 U.S.C. 1691 *et seq.*

(6) *PVO* means private and voluntary organizations.

(7) *PVO grant program* means those grants which AID has determined as a matter of policy can be made to only those PVOs which are registered and which meet the funding requirements of section 123(g) of the FAA, 22 U.S.C. 215u(g).

(8) *Subventions* means (i) The payment of transportation charges under section 123(b) of the FAA, 22 U.S.C. 215u(b); (ii) The sale of services or commodities, *e.g.*, excess property, under section 607(a) of the FAA, 22 U.S.C. 2357(a); and (iii) The furnishing of agricultural commodities under section 202 of Pub. L. 480, 7 U.S.C. 1722.

§ 203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.

An applicant shall be registered with A.I.D. as a U.S. PVO if A.I.D. finds that the applicant has satisfied all the conditions and documentation requirements of registration listed below. An applicant seeking registration shall submit to A.I.D., Washington, DC 20523, the documentation listed below accompanied by a letter stating the reasons for seeking registration signed by its chief executive officer and supported by a resolution of its governing body. In addition, the applicant shall submit such other information as A.I.D. may reasonably require to determine if the applicant should be registered.

(a) *Condition and documentation requirement no. 1—(1) Condition.* That the applicant is a private nongovernmental organization which is organized under U.S. law and maintains its principal place of business in the United States and is not a university, college, accredited degree-granting institution of education, private foundation, organization engaged exclusively in research or scientific activities, church, or organization engaged exclusively in religious activities.

(2) *Documentation requirement.* Articles of incorporation, bylaws, relevant documents establishing its legal status, and a statement as to the location of the organization's principal offices.

(b) *Condition and documentation requirement, no. 2—(1) Condition.* That the applicant receives funds from private U.S. sources, as defined in paragraph (g)(3) of § 203.1.

(2) *Documentation requirement.* The latest audited financial statement (see Condition No. 6 at § 203.2(f) of this section).

(c) *Condition and documentation requirement no. 3—(1) Condition.* That the applicant is a nonprofit organization and has a tax exemption under any one of the following provisions of the Internal Revenue Code: section 501(c)(3), except private foundations under section 509(a)(2); as a social welfare organization under section 501(c)(4); section 501(c)(5); or section 501(c)(6).

(2) *Documentation requirement.* IRS Statement of Tax Exemption, and a

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copy of IRS Form 990 or 990-PF “Return of Organization Exempt from Income Tax,” or one comparable to the Internal Revenue Service document.

(d) *Condition and documentation requirement no. 4—(1) Condition.* That the applicant is a voluntary organization, *i.e.*, receives voluntary contributions of money, staff time or in-kind support from the general public.

(2) *Documentation requirement.* Latest annual report (or similar document) and audited financial statement (see Condition No. 6 at § 203.2(f)).

(e) *Condition and documentation requirement no. 5—(1) Condition.* That the applicant is, or anticipates becoming, engaged in voluntary charitable or development assistance operations abroad (other than religious), including but not limited to services of relief, rehabilitation, disaster assistance, development assistance, welfare, training, or program support and coordination for such services, in the fields of health, education, population planning, nutrition, agriculture, industry, environment, ecology, refugee services, emigration, resettlement, and development of capacities in indigenous PVOs and institutions to meet basic human needs; and that such operations are consistent with its articles of incorporation and related documentation included in the application, and with the broad purposes of the Foreign Assistance Act and Pub. L. 480.

(2) *Documentation requirement.* Latest annual report (or similar document) describing the development assistance operations. For organizations who anticipate initiating overseas activities, a statement should be included in the letter accompanying the registration documentation describing steps taken to date to undertake a program of development assistance overseas.

(f) *Condition and documentation requirement no. 6—(1) Condition.* That the applicant accounts for its funds in accordance with generally accepted accounting principles (“GAAP”); has a sound financial position as evidenced by its audited financial statements; and exercises financial planning through the preparation of an annual budget for the year subsequent to that covered in the annual audit.

(i) Further tests of the financial management systems of a PVO are part of the A.I.D. pre-grant award process. In judging the financial management systems of grant applicants the requirements set by the Office of Management and Budget (OMB) Circular A-110, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations,” Attachment F, “Standards for Financial Management Systems” will apply, and by reference, OMB Circular A-122 “Cost Principles for Nonprofit Organizations” will also apply. The determination as to whether an applicant can conform to these requirements is made through a pre-grant award review which is the responsibility of the grant officer with information provided by the A.I.D. Inspector General.

(2) *Documentation requirement.* The most recent audited financial statement including Balance Sheet, Statement of Support, Revenue and Expenditure and Statement of Change in Financial Position prepared in accordance with generally accepted accounting principles (“GAAP”) disclosing administrative, program, and fund-raising costs; and separately disclosing overseas program costs and sources and amounts of funds received for overseas programs. The audit shall be conducted by an independent Certified Public Accountant in accordance with the generally accepted auditing standards (“GAAS”) of the “Statement on Auditing Standards” of the American Institute of Certified Public Accountants. A budget for the year subsequent to that covered in the year reported in a format consistent with the audit, including the detailing of anticipated amounts and sources of support and revenue.

(i) New organizations which have been incorporated less than a year must provide an independent CPA’s statement that financial statements can be prepared in accordance with GAAP, along with an unaudited financial statement covering the period between incorporation and application for registration. The CPA’s statement for new organizations will also indicate whether the organization has installed

internal controls to enable the execution of an audit in accordance with the applicable auditing standards at the end of the first year of operations.

(g) *Condition and documentation requirement no. 7—(1) Condition.* That the applicant has a Board of Directors which meets at least annually, whose members serve without compensation for such services, and that paid officers or staff members do not constitute a majority in any decision.

(2) *Documentation requirement.* A statement indicating that paid officers or staff members who serve on the Board do not constitute a majority in any decision and members of the governing body receive no compensation for their services on that body; the names and addresses of members; and minutes of meetings or excerpts from minutes which demonstrate that the Board holds meetings at least annually.

(h) *Condition and documentation requirement no. 8—(1) Condition.* That the applicant expends and distributes its funds and resources in accordance with the stated purposes of the organization, without unreasonable cost for salaries, promotion, publicity, fund raising and administration, at home or abroad, and provides public disclosure of its financial circumstances.

(i) In determining whether an applicant obtains, expends, and distributes its funds without unreasonable cost for promotion, publicity, fund raising, and administration, A.I.D. shall consider fund raising costs as presumptively unreasonable if they exceed 20 percent of the total cash and in-kind contributions to the organization (as reflected in the audited financial statement).

(ii) An applicant for registration or a registered agency whose fund raising costs exceed the 20 percent limitation must demonstrate that such costs are not unreasonable in light of the nature of the organization's operations. Upon such a showing, A.I.D. may permit exceptions to the 20 percent limitation on a case-by-case basis.

(iii) *Contributions* as used in this section, include U.S. Government financial support, both cash and in-kind, as well as private support; similarly, it is expected that fund raising costs will

include costs incurred in securing government contributions.

(2) *Documentation requirement.* A certification that audited financial statements are available to the public upon request and a statement indicating salaries and allowances of the top five principal headquarters positions (determined by salary level) and country director positions. When provided directly by the applicant, salaries and/or allowances may be valued at actual cost; when provided by the recipient country or local institution, they may be valued at fair market value. Any other documentation or evidence which the applicant wishes to submit addressing the degree to which annual program spending has been consistent with the stated purposes of the organization and annual expenses are reasonable in amount.

(i) *Condition and documentation requirement no. 9—(1) Condition.* That the applicant is not:

(i) Suspended or debarred by an agency of the United States Government;

(ii) Designated as a foreign terrorist organization by the Secretary of State pursuant to section 219 of the Immigration and Nationality Act, as amended; or

(iii) The subject of a decision by the Department of State to the effect that registration, or a financial relationship between USAID and the organization, is contrary to the national defense, national security, or foreign policy interests of the United States.

(2) *Documentation requirement.* None.

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§ 203.3 Annual requirements.

In order to maintain its registration, each registered PVO shall submit annually, within 180 days after the close of the fiscal year, the following documents: An independently audited financial statement; a report of income and expenditures (A.I.D. Form 1550-2), which is relatable to the audited financial statements; an annual report (or similar document); a copy of IRS Form 990 or 990-PF; a budget for the new fiscal year; and a statement that all other circumstances described in the original registration material remain